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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/826,073

04/16/2004

Paul A. Lindberg

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08/14/2006

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EXAMINER

OKEZIE, ESTHER O

ART UNIT

PAPER NUMBER

3652

DATE MAILED: 08/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/826,073	Applicant(s) LINDBERG, PAUL A.	
	Examiner Esther O. Okezie	Art Unit 3652	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 May 2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|----------------------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/16/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/01/06 has been entered.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

1. Claim 1 is rejected under 35 U.S.C. 102(b) as being anticipated by US Patent Application Publication 2004/0135389 of Helms. Helms discloses a lifting device for lifting/manipulating objects comprising: a first arm (4) having an upper portion, a pivot portion and a lower portion, said upper portion of said first arm and said lower portion of said first arm extending in a common plane; a second arm (3) having an upper portion, a pivot portion and a lower portion, said pivot portion of said first arm pivotally connected to said pivot portion of said second arm, said upper portion of said second

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arm and said lower portion of said second arm extending in said common plane;
wherein at least one of said pivot portion of said first arm and said pivot portion of said second arm is offset (offset segment 26) from said common plane an amount selected such that said upper portion and said lower portion of said first arm and said upper portion and said lower portion of said second arm extend in said common plane (abstract; fig 1).

2. Claims 1,3,6,14,15,21 are rejected under 35 U.S.C. 102(b) as being anticipated by EP 0790211.

3. Re claim 1, EP 0790211 discloses a device for lifting/manipulating objects comprising: a first arm (1) having an upper portion, a pivot portion and a lower portion, said upper portion of said first arm and said lower portion of said first arm extending in a common plane; a second arm (2) having an upper portion, a pivot portion and a lower portion, said pivot portion of said first arm pivotally connected to said pivot portion of said second arm, said upper portion of said second arm and said lower portion of said second arm extending in said common plane; wherein at least one of said pivot portion of said first arm and said pivot portion of said second arm is offset from said common plane an amount selected such that said upper portion and said lower portion of said first arm and said upper portion and said lower portion of said second arm extend in said common plane (fig 1 and 2).

4. Re claim 3, at least a portion of said lower portion of said first arm follows a second radius of curvature having a center on an interior side of said first arm (fig 1).

5. Re claim 6, a first jaw (12) affixed to said first arm, said jaw extending substantially perpendicular to the longitudinal extent of said first arm.
6. Re claim 14, EP 0790211 discloses a device for lifting/manipulating objects comprising: a first arm (1) having an upper portion and a lower portion; a second arm (2) having an upper portion and a lower portion; a pivot joint (3) pivotally interconnecting said first arm and said second arm, said pivot joint configures such that said upper portion and said lower portion of said first arm and said upper portion and said lower portion of said second arm extend in a common plane (fig 2); a lift ring (see ring above shackles; a first and second shackle (10,11); and a second shackle interconnecting said second arm to said lift ring (fig 1).
7. Re claim 15, a first jaw (12) affixed to said first arm, said first jaw extending substantially perpendicular to the longitudinal extent of said first arm.
8. Re claim 21, said first arm includes an offset portion (16) and second arm includes an offset portion (15); and wherein said pivot joint includes a pivot pin (33) interconnecting said offset portion of said first arm with said offset portion of said second arm (fig 2).

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

9. Claims 2,4,5, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0790211 in view of Hultquist. EP 0790211 discloses the lower portions of each

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arm follow a radius of curvature having a center on an interior side of the arms. The lower portions of the arms follow an "S" shape and open outwardly but the upper portions are flat. EP 0790211 does not disclose the upper portions of the arms following a radius of curvature having a center on an exterior side of the arms so that the arms have a somewhat "S" shape having a lower portion extending along a radius of curvature opening inwardly and an upper portion extending along a radius of curvature opening outwardly. Hultquist discloses a tong-type clamp in which the upper and lower portions of both arms (12,14) have a somewhat "S" shape having a lower portion extending along a radius of curvature opening inwardly and an upper portion extending along a radius of curvature opening outwardly (see figs 1 and 5). It would have been obvious to one of ordinary skill at the time of the invention to provide the arms of EP 0790211 with an "S" shaped configuration so that the arms could pivot to a wider position to extend around larger items (Hultquist: col. 1, lines 64-67).

10. Claims 7,8,16 are rejected under 35 U.S.C. 103(a) as being unpatentable over EP 0790211 in view of Eckert

11. Re claim 7, EP 0790211 does not disclose the jaw including a plurality of teeth. Eckert teaches a pipe lifter with teeth (16) oriented around a curve of the jaws (14). It would have been obvious to one of ordinary skill in the art to modify the jaws of EP 0790211 to include teeth in order to more suitably secure objects from slipping during transport.

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12. Re claim 8 and 16, EP 0790211 does not disclose the jaw including a plurality of teeth oriented along a curve. Eckert teaches a pipe lifter with teeth (16) oriented around a curve of the jaws (14). It would have been obvious to one of ordinary skill in the art to modify the jaws of EP 0790211 as taught by Eckert to include teeth arranged about a curve in order to grasp round objects and more securely retain objects that would slip between linearly arranged teeth.

13. Claims 9,10,17,18 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of EP 0790211 and Eckert as applied to claims 7,8,16 above, and further in view of Japanese Patent JP 05286682 A.

14. Re claim 9 and 17, EP 0790211 The combination does not disclose the jaw manufactured from a segment of nagle iron having a first leg and a second leg and said plurality of teeth being defined on said first leg. Eckert discloses the jaw with only one leg (14) extending from the arm of the pipe lifter. Japanese Patent JP 05286682 A discloses the device wherein said jaws are angled having a first leg (8a) and a second leg (11a), said plurality of teeth (12a) being defined in said first leg (fig 6). It would have been obvious to one of ordinary skill in the art to modify the combination to form the jaws in two parts in order to provide a support to reinforce the jaw base. It is unclear whether Japanese Patent JP 05286682 A discloses the jaws as manufactured from iron. However, it would be obvious to one of ordinary skill in the art to manufacture jaws from iron because iron is well know in the art and readily available.

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15. Re claim 10 and 18, EP 0790211 discloses the arms (1,2) moveable between a first fully open position and a second closed position wherein said first jaw and said second jaw are mounted to said first arm and said second arm such that said first leg of said jaw and said first leg of said second jaw extend along a substantially horizontal plane when said arms are in said fully open position (fig. 1; abstract).

16. Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of EP 0790211 and Eckert, and in view of Japanese Patent JP 05286682 A as applied to claims 9 and 17, above and further in view of Cook. Neither EP 0790211, Eckert or Japanese Patent JP 05286682 A disclose a pair of reinforcing plates interconnected between first jaw and said first arm, the reinforcing plates being disposed on opposite sides of said first arm and said reinforcing plates extending between said second leg and said first arm. Cook teaches a material manipulator including first arm webs arranged at acute angles to the lower first arm (24; column 4, lines 3-10; figs 3 and 4). It would have been obvious to one of ordinary skill in the art to add reinforcing plates to the jaws of the combination in order to strengthen the jaws against failing when lifting heavier objects.

17. Claims 13 and 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of EP 0790211 and Hultquist as applied to claim 19 above, and further in view of Dickey et al. it is not clear whether EP 0790211 discloses handles mounted on the lower portion of the arms, however reference 44 on the lower section of arm (2)

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appears to be a handle. Dickey et al. teaches a tong device including handles (93 and 95) mounted on the lower section of both arms (fig 9). It would have been obvious to one of ordinary skill in the art to modify EP 0790211 to include auxiliary handles in order to provide an alternate apparatus for opening the arms in case they are locked.

Response to Arguments

Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Esther O. Okezie whose telephone number is (571) 272-8108. The examiner can normally be reached on Mon-Thurs 8-6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen D. Lillis can be reached on (571) 272-6928. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

EOO 7/07/06



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